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Approved For Release 2001/09/03 : CIA-RDP84-00709R000400070290-1
OGC Has Reviewed

Confidential Funds Branch

10 June 1949

Office of the General Counsel

Baggage Transfer Charges

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1. Reference is made to your memorandum of 15 April 1949, transmitting therewith Audit Branch Memorandum No. 357 and [REDACTED] memorandum dated 8 April 1949, which constitutes a response to the questions raised by the former.

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2. You specifically request that your office be advised whether Item 1-C of the [REDACTED] memorandum is allowable under paragraph 41, "Transfer of Baggage", or paragraph 44, "Definition" of the Standardized Travel Regulations, as interpreted by the Comptroller General's Decision cited in your memorandum. You have stated that in your opinion the charges such as are involved in the instant case are allowable, where, in the opinion of the Certifying Officer, the necessity has been adequately explained as required in paragraph 41 of the Travel Regulations.

3. Item 1-C is found in the [REDACTED] memorandum and is described as follows:

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"C. Transfer of bags from taxi to train at Union Station at 15¢ per bag (4 pieces, including 2 large suitcases and 1 large duffle bag, which could not be handled alone) .60"

4. The Act of January 30, 1942 (56 Stat.39), amending section 3 of the Subsistence Expense Act of 1926 (44 Stat.688) as amended by the Act of June 30, 1942 (47 Stat.105), provides,

"SEC. 3. Civilian officers and employees of the department and establishment, while traveling on official business and away from their designated posts of duty, shall be allowed, in lieu of their actual expenses for subsistence and all fees or tips to porters and stewards, a per diem allowance to be prescribed by the head of the department or establishment concerned, not to exceed the rate of \$5 within the limits of continental United States, and not to exceed an average of \$6 beyond the limits of continental United States."

5. Paragraph 8 of the Standardized Government Travel Regulations as amended, specifically provides: "All fees and tips are payable from the per diem in lieu of subsistence. (See paragraph 44)." Paragraphs 41, 43, and 44 thereof, provide in material part, as follows:

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4.1. Transfer of Baggage. - Necessary charges for the transfer of baggage will be allowed at not to exceed customary local rates. Necessity for the transfer of hand baggage must be explained.

4.3. Checking baggage. - Charges for the checking of baggage will be allowed at not to exceed customary local rates.

4.4. Definition. - The per diem in lieu of subsistence expenses will be held to include all charges for meals; lodgings; personal use of room during daytime; baths; all fees and tips to waiters, porters, baggage men, bell boys, hotel maids, dining-room stewards and others on vessels, and hotel servants in foreign countries, in connection with subsistence and transportation.

6. The question posed by your memorandum is whether "transfer of baggage" as described therein falls within the extension of the term "subsistence" and is payable from the per diem allowance, or within "transportation" and is payable as a reimbursable transportation expense. In our opinion Item C as described in the [redacted] memorandum does not establish a "transfer of baggage" within the meaning of paragraph 4.1 above, and is, in fact, indistinguishable from tips or fees to "train porters" and station "red caps" incident to handling of baggage on trains, at railroad stations, from taxi to train, and from train to taxi. Item 1-B would appear to be more in consonance with the concept of "transfer of baggage" than Item 1-C, for the charge is made under the authority of regulations prescribed by the Public Utilities Commission of the District of Columbia.

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7. In view of the provisions of law and the regulations above quoted, and on the basis of the facts recited in the [redacted] memorandum, it is our opinion that the expenses of Item C are covered by paragraph 4.4 of the regulations as expenses which are required to be paid out of the employee's per diem allowance as primarily incident to the handling of personal baggage (27 C.G.52). In connection with the adequacy of the explanation submitted by Miss [redacted] the language in the above cited decision is pertinent;

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"Illness or physical disability on the part of a Government employee has never been considered sufficient reason for increasing the cost of transportation or travel expenses to be paid by the Government."

Hence, the mere fact that personal baggage is too heavy or could not be handled alone, is no basis on which to pass expenses to the Government.

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8. We perceive no difference in the elements discussed in the instant case and those discussed in the C.G.H.L, and therefore adopt its conclusion that the expenses here involved must be considered on the basis of personal expenses of the traveler to be taken care of under the per diem allowance to which she is entitled, rather than as part of or incident to transportation expenses.

9. Your file is returned herewith.

JSE.hw

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cc: Subject ~~etc.~~
Chrono
Director
Legal Advisor

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